

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION  
AND IS NOT BINDING PRECEDENT OF THE BOARD**

Filed by: Trial Section Merits Panel  
Box Interference, Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Paper No. ~~8~~ 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

LUTZ FREITAG,

Junior Party,  
(Patent 5,601,593)<sup>1</sup>

v.

PAUL H. BURMEISTER, CHARLES L. EUTENEUER,  
BRIAN J. BROWN, PAUL J. FORDENBACHER  
and ANTHONY C. VRBA

Senior Party,  
(Application 08/737,492)<sup>2</sup>

Patent Interference No. 105,036

Before SCHAFER, LEE and TORCZON, Administrative Patent Judges.

LEE, Administrative Patent Judge.

**Judgment**

<sup>1</sup> Based on application 08/517,162, filed August 18, 1995. The real party in interest is Willy Rusch AG.

<sup>2</sup> Filed March 19, 1997. Accorded the benefit of application 08/246,320, filed May 19, 1994; and PCT/US95/06228, filed March 18, 1995. The real party in interest is Scimed Life Systems, Inc.

**FAXED**  
NOV - 5 2002  
PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Interference No. 105,036  
Freitag v. Burmeister

On November 4, 2002, Junior party Freitag filed a paper stating:

This is to advise that the Junior Party will not pursue this interference.

The notice appears to be a concession of priority and thus is treated, under 37 CFR § 1.662(a), as a request for entry of adverse judgment. The request is **granted**.

It is

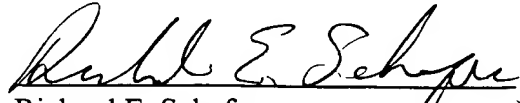
**ORDERED** that judgment as to the subject matter of the count is hereby entered against junior party LUTZ FREITAG;

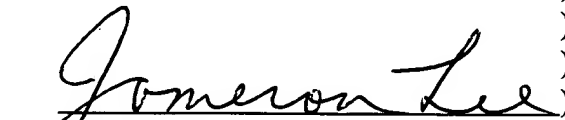
**FURTHER ORDERED** that junior party LUTZ FREITAG is not entitled to its patent claims 1-6 and 9 which correspond to the count; and


**FURTHER ORDERED** that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

**FURTHER ORDERED** that a copy of this judgment be filed in the respective involved application or patent of the parties.

Interference No. 105,036  
Freitag v. Burmeister

  
Richard E. Schafer  
Administrative Patent Judge

  
Jameson Lee  
Administrative Patent Judge

  
Richard Torczon  
Administrative Patent Judge

BOARD OF PATENT  
APPEALS  
AND  
INTERFERENCES

Interference No. 105,036  
Freitag v. Burmeister

By Facsimile

Counsel for Senior Party Burmeister:

952-563-3001 (Fax)  
Scott Q. Vidas, Esq.  
VIDAS, ARRETT & STEINKRAUS, P.A.  
Suite 2000  
6109 Blue Circle Drive  
Minnetonka, Minnesota

Counsel for Junior Party Freitag:

212-986-3461 (Fax)  
Friedrich Kueffner, Esq.  
317 Madison Avenue,  
Suite 910  
New York, New York 10017